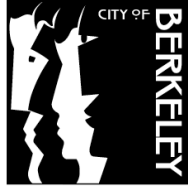


**REVISED AGENDA
(ADDED CONTINUED ITEMS FROM
FEBRUARY 28, 2012)**



**BERKELEY CITY COUNCIL MEETING
TUESDAY, MARCH 6, 2012
7:00 P.M.**

COUNCIL CHAMBERS - 2134 MARTIN LUTHER KING JR. WAY

TOM BATES, MAYOR

Councilmembers:

DISTRICT 1 – LINDA MAIO
DISTRICT 2 – DARRYL MOORE
DISTRICT 3 – MAX ANDERSON
DISTRICT 4 – JESSE ARREGUIN

DISTRICT 5 – LAURIE CAPITELLI
DISTRICT 6 – SUSAN WENGRAF
DISTRICT 7 – KRISS WORTHINGTON
DISTRICT 8 – GORDON WOZNAK

This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Mark Numainville, CMC, Acting City Clerk, 981-6900.

The City Council may take action related to any subject listed on the Agenda. The Mayor may exercise a two minute speaking limitation to comments from Councilmembers. Meetings will adjourn at 11:00 p.m. - any items outstanding at that time will be carried over to a date/time to be specified.

Preliminary Matters

Roll Call:

Ceremonial Matters: *In addition to those items listed on the agenda, the Mayor may add additional ceremonial matters.*

City Manager Comments: *The City Manager may make announcements or provide information to the City Council in the form of an oral report. The Council will not take action on such items but may request the City Manager place a report on a future agenda for discussion.*

Public Comment on Non-Agenda Matters: *Five persons selected by lottery will have two minutes each to address matters not on the Council agenda. Persons wishing to address the Council on matters not on the Council agenda during the initial ten-minute period for such comment, must submit a name card to the City Clerk in person at the meeting location and prior to commencement of that meeting. Five cards will be drawn by the City Clerk to determine the speakers who will be allowed to comment during the first round of public comment on non-agenda matters. The remainder of the speakers wishing to address the Council on non-agenda items will be heard at the end of the agenda. Name cards are not required for this second round of public comment on non-agenda matters.*

Public Comment on Consent Calendar and Information Items Only: *The Council will take public comment on any items that are either on the amended Consent Calendar or the Information Calendar. Up to three speakers will be entitled to two minutes each to speak in opposition to or support of a Consent Calendar Item. The Presiding Officer will ask additional persons in the audience to stand to demonstrate their respective opposition to or support of the item.*

In the event that there are more than three persons wishing to speak either in opposition to or support of a "Consent" item, the Presiding Officer will move the item to the beginning of the Action Calendar. Prior to moving the item, the Presiding Officer will fully inform those persons in the audience of this process.

Additional information regarding public comment by City of Berkeley employees and interns: Employees and interns of the City of Berkeley, although not required, are encouraged to identify themselves as such, the department in which they work and state whether they are speaking as an individual or in their official capacity when addressing the Council in open session or workshops.

Consent Calendar

The Council will first determine whether to move items on the agenda for action or "Information" to the "Consent Calendar", or move "Consent Calendar" items to action. Items that remain on the "Consent Calendar" are voted on in one motion as a group. "Information" items are not discussed or acted upon at the Council meeting unless they are moved to "Action" or "Consent".

After hearing from public speakers regarding items remaining on the Consent Calendar, any Council Member may move any Information or Consent item to "Action", however no additional items can be moved onto the Consent Calendar at that point. Following this, the Council will vote on the items remaining on the Consent Calendar in one motion.

For items removed from the Consent Calendar to the Action Calendar for additional public comment, at the time the matter is taken up during the Action Calendar, public comment will be limited to persons who have not previously addressed that item during the Consent Calendar related public comment period.

- 1. Contract No. 8313 Amendment: Theresa Darrenouge for Real-Time Closed Captioning Stenography**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 8313 with Theresa Darrenouge for the provision of real-time closed captioning stenography services at all worksessions, regular and special meetings of the City Council, increasing the contract amount by \$78,000 for a total not to exceed \$128,000 and extending the contract term from March 24, 2012 through March 24, 2013 with the option of two one-year extensions.
Financial Implications: General Fund - \$78,000
Contact: Mark Numainville, Acting City Clerk, 981-6900
- 2. Extension of Moratorium on Charging for Parking at Meters on Adeline Street Between Woolsey Street and Alcatraz Avenue**
From: City Manager
Recommendation: Adopt a Resolution that extends the moratorium on charging for parking at meters on Adeline Street between Woolsey Street and Alcatraz Avenue to December 31, 2012, and clarifies that this will be the last such extension recommended by staff. Resolution 65,587-N.S. adopted on January 31, 2012 was mistakenly worded to expire on March 5, 2012.
Financial Implications: See report
Contact: Michael Caplan, Economic Development, 981-7530

Consent Calendar

3. Contract: County of Alameda for Shelter Plus Care Program

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract with the County of Alameda for Shelter Plus Care funds in the amount of \$241,057 to provide tenant-based rental assistance for people living with HIV/AIDS for the 12-month period of March 1, 2012 through February 28, 2013.

Financial Implications: See report

Contact: Jane Micallef, Health, Housing and Community Services, 981-5400

4. Grants: Alameda County Health Care Services Agency for Public Health Infrastructure

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to accept grant funds from the Alameda County Health Care Services Agency, for Public Health Infrastructure in the amount of \$32,080 for one year, July 1, 2011 through June 30, 2012, to conduct essential operational activities; and to execute the resultant revenue agreements, contracts, and any amendments and extensions.

Financial Implications: See report

Contact: Jane Micallef, Health, Housing and Community Services, 981-5400

5. Grants: California Department of Public Health for the Berkeley Tobacco Prevention Program

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to accept grant funds from the California Department of Public Health (CDPH) for the Berkeley Tobacco Prevention Program (BTPP) in the amount of \$150,000 per fiscal year for three years, July 1, 2010 through June 30, 2013 for a total award amount of \$450,000 to conduct tobacco prevention activities and related services; and to execute the resultant revenue agreements, contracts, and any amendments and extensions.

Financial Implications: See report

Contact: Jane Micallef, Health, Housing and Community Services, 981-5400

6. Lot Line Adjustment and Legal Documents Associated with Financing for Harrison House

From: City Manager

Recommendation: Adopt a Resolution authorizing the Interim City Manager, or her designee, to approve a lot line adjustment for City-owned property at 711 Harrison Street leased to Building Opportunities for Self Sufficiency (BOSS) and to execute lease riders, non-disturbance and attornment agreements, and any related documents to facilitate financing for the rehabilitation of Harrison House, an emergency shelter and transitional housing program operated by BOSS.

Financial Implications: See report

Contact: Jane Micallef, Health, Housing and Community Services, 981-5400

Consent Calendar

7. Contract 7700A Amendment: Fairbanks Scales for the Maintenance and Repair of Solid Waste Transfer Station Scales

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract amendment in the amount of \$65,000 with Fairbanks Scales, Inc., for the maintenance and repair of scales at the solid waste transfer station, for a revised total contract amount not to exceed \$155,000 and extending the term through December 31, 2012.

Financial Implications: Refuse Fund - \$65,000

Contact: Andrew Clough, Public Works, 981-6300

8. Revival of the Solano Avenue Business Improvement District

From: Solano Avenue BID Advisory Board

Recommendation: Adopt a Resolution accepting the Solano Avenue Business Improvement District Advisory Board's (hereafter "Solano BID Advisory Board" or "the Advisory Board") recommendation that Council revive the Solano BID by:

1. Approving a report and preliminary budget on proposed improvements in the District;
2. Declaring its intent to levy an assessment for the balance of calendar year 2012 to finance improvements in the District and;
3. Directing the City Clerk to schedule a public hearing on the renewal of the assessment for May 1, 2012.

Financial Implications: See report

Contact: Michael Caplan, Economic Development, 981-7530

Council Consent Items

9. Contribution Limits on Contractors Doing Business with the City

From: Councilmember Arreguin

Recommendation: Refer to the Fair Campaign Practices Commission (FCPC) for consideration the issue of prohibiting contributions by contractors doing business with the City and the Berkeley Unified School District.

Financial Implications: Unknown

Contact: Jesse Arreguin, Councilmember, District 4, 981-7140

10. City Manager Referral: Sidewalk Display of Merchandise Pilot Program on Telegraph and Re-refer Citywide Policy to the Planning Commission

From: Councilmember Worthington

Recommendation: Refer to the City Manager to expedite a pilot program on Telegraph Avenue and refer to the Planning Commission a citywide policy to consider the San Francisco ordinance Sidewalk Display of Merchandise.

Financial Implications: Unknown

Contact: Kriss Worthington, Councilmember, District 7, 981-7170

Council Consent Items

- 11. Holocaust Remembrance Day Event: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds**
From: Councilmembers Worthington and Wengraf
Recommendation: Adopt a Resolution approving the expenditure of an amount not to exceed \$900 per Councilmember to the Holocaust Remembrance Day Event with funds relinquished to the City's general fund for this purpose from Councilmember Kriss Worthington's and Susan Wengraf's discretionary Council Office Budgets and any other Councilmembers who would like to contribute.
Financial Implications: Councilmembers' Discretionary Funds - \$900
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
- 12. Proclamation of the 10th Annual Holocaust Remembrance Day Event**
From: Councilmembers Worthington and Wengraf
Recommendation: Adopt the Holocaust Remembrance Day Proclamation for the 10th Annual Holocaust Remembrance Day event.
Financial Implications: None
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
- 13. Community Health Commission Guest Speaker Stipend: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds**
From: Councilmember Wozniak
Recommendation: Adopt a Resolution approving the expenditure of an amount not to exceed \$400 per Councilmember, including \$400 from Councilmember Wozniak, to have the City Manager pay the invoice of the stipend for guest speaker, Margarita Quihuis, at the April 12, 2012, Community Health Commission (CHC) with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Councilmember Wozniak and any other Councilmembers who would like to contribute.
Financial Implications: Councilmember's Discretionary Funds - \$400
Contact: Gordon Wozniak, Councilmember, District 8, 981-7180

Action Calendar

After the initial ten minutes of public comment on non-agenda items and public comment and action on consent items, the public may comment on each remaining item listed on the agenda for action as the item is taken up. Where an item was moved from the Consent Calendar to Action no speaker who has already spoken on that item would be entitled to speak to that item again.

The Presiding Officer will request that persons wishing to speak line up at the podium to determine the number of persons interested in speaking at that time. Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. The Presiding Officer may, with the consent of persons representing both sides of an issue, allocate a block of time to each side to present their issue.

Action Calendar – Public Hearing

Staff shall introduce the public hearing item and present their comments. This is followed by five-minute presentations each by the appellant and applicant. The Presiding Officer will request that persons wishing to speak, line up at the podium to be recognized and to determine the number of persons interested in speaking at that time.

Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. The Presiding Officer may with the consent of persons representing both sides of an issue allocate a block of time to each side to present their issue.

14. Downtown Area Plan (DAP) 2012 and Implementation Measures

From: City Manager

Recommendation: Conduct a public hearing and upon conclusion provide direction to staff regarding the following actions proposed to be taken at the March 20, 2012 Council meeting:

1. Certification of the Environmental Impact Report (EIR) and adopt CEQA findings and the Mitigation Monitoring and Reporting Program;
2. Adoption of amendments to the General Plan text and map to implement the DAP 2012;
3. Adoption of the DAP 2012;
4. Adoption of first reading of Ordinances to repeal and reenact Berkeley Municipal Code (BMC) Chapter 23E.68, Commercial Downtown Mixed- Use (C-DMU); to enact BMC Chapter 23B.34 (Green Pathway); and to amend Definitions in BMC Chapter 23F.04;
5. Adoption of first reading of an Ordinance to amend the official Zoning Map by reclassifying portions of the Downtown Area Plan area from C-1, C-2, C-SA, R-2A and R-4 to C-DMU, C-SA, or R-3 and include the following four subareas within the C-DMU District: Core, Outer Core, Corridor, and Buffer.

Financial Implications: See report

Contact: Wendy Cosin, Planning and Development, 981-7400

Action Calendar – Continued Business

A. Amend the Constitution to End Corporate Personhood *(Continued from February 28, 2012)*

From: Councilmember Arreguin

Recommendation: Adopt a Resolution urging our federal representatives to amend the constitution to end corporate personhood.

Financial Implications: None

Contact: Jesse Arreguin, Councilmember, District 4, 981-7140

B. Ban Agricultural Use of Methyl Iodide in California *(Continued from February 28, 2012)*

From: Councilmember Worthington

Recommendation: Send the Director of California's Department of Pesticide Regulation (DPR), Brian Leahy, a letter urging the banning of methyl iodide in agricultural uses.

Financial Implications: None

Contact: Kriss Worthington, Councilmember, District 7, 981-7170

Action Calendar – New Business

15. **Contract No. 6303A Amendment: RCC Consultants for Peer Review of Applications for Telecommunication Projects**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to the contract with RCC Consultants for peer review of applications for telecommunication projects to increase the contract amount of \$124,999 by \$100,000 for a new contract amount not to exceed \$224,999.
Financial Implications: See report
Contact: Wendy Cosin, Planning and Development, 981-7400

Information Reports

16. **Status Report-Audit Efficiency and Transparency of Contract Fiscal Management Needs Improvement**
From: City Manager
Contact: Robert Hicks, Finance, 981-7300
17. **Berkeley Student Cooperative, the Housing Trust Fund, and the Affordable Housing Mitigation Fee**
From: City Manager
Contact: Jane Micallef, Health, Housing and Community Services, 981-5400
18. **Report on Regional Bodies Participation-Countywide Transportation Plan, Steering Committee**
From: Councilmember Worthington
Contact: Kriss Worthington, Councilmember, District 7, 981-7170

Public Comment – Including Items Not Listed on the Agenda –

Adjourned in Memory of:

- Peter Cukor

NOTICE CONCERNING YOUR LEGAL RIGHTS: If you object to a decision by the City Council to approve or deny a use permit or variance for a project the following requirements and restrictions apply: 1) No lawsuit challenging a City decision to deny (Code Civ. Proc., 1094.6(b)) or approve (Gov. Code 65009(c)(5)) a use permit or variance may be filed more than 90 days after the date the Notice of Decision of the action of the City Council is mailed. Any lawsuit not filed within that 90-day period will be barred. 2) In any lawsuit that may be filed against a City Council decision to approve or deny a use permit or variance, the issues and evidence will be limited to those raised by you or someone else, orally or in writing, at a public hearing or prior to the close of the last public hearing on the project.

Live captioned broadcasts of Council Meetings are available on Cable B-TV (Channel 33), via internet accessible video stream at <http://www.ci.berkeley.ca.us/video> and KPFB Radio 89.3.

Archived indexed video streams are available at <http://www.ci.berkeley.ca.us/citycouncil>.
Channel 33 rebroadcasts the following Wednesday at 9:00 a.m. and Sunday at 9:00 a.m.

Any writings or documents provided to a majority of the City Council regarding any item on this agenda will be made available for public inspection at the public counter at the City Clerk Department located on the first floor of the civic center located at 2180 Milvia Street as well as posted on the City's website at <http://www.cityofberkeley.info>.

Agendas and agenda reports may be accessed via the Internet at <http://www.ci.berkeley.ca.us/citycouncil> and may be read at reference desks at the following locations:

City Clerk Department
2180 Milvia Street

Tel: 510-981-6900

TDD: 510-981-6903

Fax: 510-981-6901

Email: clerk@ci.berkeley.ca.us

Libraries:

Main - 2090 Kittredge Street

West Branch – 1125 University

South Branch – 1901 Russell

COMMUNICATION ACCESS INFORMATION:

This meeting is being held in a wheelchair accessible location.

To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6346(V) or 981-7075 (TDD) at least three business days before the meeting date.

Please refrain from wearing scented products to this meeting.



Captioning services are provided at the meeting, on B-TV, and on the Internet. In addition, assisted listening devices for the hearing impaired are available from the City Clerk prior to the meeting, and are to be returned before the end of the meeting.

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***I hereby certify that the agenda for this meeting of the Berkeley City Council was posted at the display case located near the walkway in front of Council Chambers, 2134 Martin Luther King Jr. Way, as well as on the City's website, on March 1, 2012.***

A handwritten signature in black ink, appearing to read 'Mark Numainville'.

Mark Numainville, Acting City Clerk

## Communications

*Council rules limit action on Communications to referral to the City Manager and/or Boards and Commissions for investigation and/or recommendations. All communications submitted to Council are public record.*

### **Trash/Recycling Bins on Sidewalk**

1. Nancy Carleton

### **Painted Benches on Shattuck**

2. James Armstrong II